

1 Arizona Department of Real Estate  
2910 North 44th Street, Suite 100  
2 Phoenix, Arizona 85018  
Telephone: (602) 771-7760  
3 Facsimile: (602) 468-0562

4 **BEFORE THE ARIZONA DEPARTMENT OF REAL ESTATE**

5  
6 In the matter of the timeshare violations of:

**File No.: 07F-LI-580**

7 **IGNACIO CHAVEZ-MORAN**, an unlicensed  
8 individual, and **FIESTA DE CORTEZ HOTEL**  
9 **URBANIZADORA VACACIONAL DE PUERTO**  
10 **PENASCO, S.A., DE C.V.**, a foreign corporation  
and unlicensed entity,

**CEASE AND DESIST ORDER AND  
NOTICE OF RIGHT TO REQUEST  
HEARING**

11 Respondents.

12  
13 DIRECTED TO:

**IGNACIO CHAVEZ-MORAN**  
**FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL**  
**DE PUERTO PENASCO, S.A., DE C.V.**  
C/o Roberto Salazar, Esq.  
3264 N. Little Horse Drive  
Tucson, Arizona 85712-1139

17 The Commissioner of the Arizona Department of Real Estate (the "Commissioner" and  
18 "Department", respectively), based upon information and belief, alleges:

19 **FINDINGS OF FACT**

20 1. Fiesta De Cortez Hotel Urbanizadora Vacacional De Puerto Penasco, S.A. , de  
21 C.V. ("Fiesta") is a foreign corporation duly established pursuant to the laws and standards of  
22 Mexico, as certified on June 8, 1983, attested by Genaro Alfredo Gastelum, Notary Public  
23 Number 91, in Puerto Penasco, Sonora, Mexico Record 160, Section Comercio 1 Volume  
24 One, recorded Public Register's Office of Trade Property and Trade of Puerto Penasco,  
25 Sonora, Mexico. Ignacio Chavez-Moran ("Chavez") is the owner of Fiesta.

26 2. From December of 2006 through January of 2007, the Department received  
27 multiple complaints from consumers regarding the advertising of, offering to sell, or selling of  
28

1 condominiums offered by Fiesta for a development known as Fiesta De Cortez Suites and  
2 Hotel Resort aka Fiesta Golden Resort (the "Property").

3 3. A.R.S. §32-2101 (22) defines a "Development" as "any division, proposed division  
4 or use of real property that the Department has authority to regulate, including subdivided  
5 and unsubdivided lands, cemeteries, **condominiums** (emphasis added), timeshares,  
6 membership campgrounds and stock co-operatives".

7 4. A.R.S. §32-2101 (55)(b) defines a "Subdivision" or "Subdivided Lands" as including  
8 "a stock cooperative, lands divided or proposed to be divided as part of a common  
9 promotional plan and **residential condominiums** (emphasis added) as defined in Title 33,  
10 Chapter 9.

11 5. A.R.S. §32-2101 (54) defines a "Subdivider" as any person who offers for sale or  
12 lease . . . parcels or fractional interests in a subdivision . . . or who undertakes to develop a  
13 subdivision."

14 6. A.R.S. §32-2181 (A) provides that "before offering subdivided lands for sale or  
15 lease, the subdivider shall notify the commissioner in writing of the subdivider's intention".

16 7. There is no record with the Department that Fiesta or Chavez ever notified the  
17 Commissioner of the intent to sell condominiums or ever applying for a subdivision Public  
18 Report with respect to the Property.

### 19 VIOLATIONS

20 1. Fiesta and Chavez, through actions described in the Findings of Fact, offered for  
21 sale, sold or transferred condominiums within the Property without registering a notice of  
22 intent to do so with the Department, in violation of A.R.S. §32-2181 (A).

23 2. Fiesta and Chavez, through actions described in the Findings of Fact, offered for  
24 sale or lease condominiums for the Property in this state without first obtaining a public  
25 report, in violation of A.R.S. §32-2183 (F).

26 3. Fiesta and Chavez, through actions described in the Findings of Fact, did not file  
27 copies of advertising materials used in connection with sales of condominiums within the  
28 Property, in violation of A.R.S. §32-2183.01 (A).



1       4. Pursuant to A.R.S §32-2154, if it appears that any person has engaged, is  
2 engaging or is preparing to engage in any act, practice or transaction that constitutes a  
3 violation of Title 32, Chapter 20, the Department may issue an order directing any person to  
4 cease and desist from engaging in the act, practice or transaction or doing any act in  
5 furtherance of the act, to make restitution or to take appropriate affirmative action to correct  
6 the conditions resulting from the act, practice or transaction.

7                                   **CEASE AND DESIST**

8       NOW, THEREFORE, the Commissioner finds IGNACIO CHAVEZ-MORAN, and  
9 FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO,  
10 S.A., DE C.V. have engaged in offering to sell, or advertise the selling of condominiums  
11 located within the Property without complying with applicable statutes; that these acts,  
12 practices and transactions constitute a violation of the previously mentioned A.R.S sections.

13       Thus, the Commissioner is issuing this Cease and Desist Order directing IGNACIO  
14 CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL DE  
15 PUERTO PENASCO, S.A., DE C.V. to cease and desist from selling or offering, advertising,  
16 facilitating, counseling, advising, directing, negotiating, assisting, or attempting to sell, within  
17 the State of Arizona, portions in the Property without first complying with all applicable laws  
18 and rules, pursuant to A.R.S. §§32-2154 (A) and 32-2181 et. seq.

19       IT IS ORDERED that IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL  
20 URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. immediately cease  
21 and desist from selling or offering, advertising, facilitating, counseling, advising, directing,  
22 negotiating, assisting, or attempting to sell, within the State of Arizona, portions in the  
23 Property without first complying with all applicable laws and rules; and immediately provide  
24 notice to persons to whom IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL  
25 URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. have sold lots or  
26 parcels in the Property of the right to rescind, or cancel the purchase, pursuant to A.R.S.  
27 §§32-2154 and 32-2183 (F)

28       **IT IS FURTHER ORDERED** that this Cease and Desist Order shall be recorded in the



1 office of the County Recorder for each County within the State of Arizona, pursuant to the  
2 provisions of A.R.S. §32-2183.02 (A).

3 **NOTICE**

4 This Cease and Desist Order is an appealable agency action under A.R.S. §41-1092.  
5 IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA  
6 VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. may request an administrative  
7 hearing to contest this Cease and Desist Order by filing a Notice of Appeal within thirty (30)  
8 days of receipt of this notice by IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ  
9 HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V.. Failure to  
10 timely file a Notice of Appeal will constitute a waiver of IGNACIO CHAVEZ-MORAN, and  
11 FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO,  
12 S.A., DE C.V.'s right to any hearing on this matter and to any other appeal right to which  
13 IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA  
14 VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. are otherwise entitled. The Notice of  
15 Appeal must identify the appealing party, the party's address, the action being appealed and  
16 must also contain a concise statement of the reason(s) for the appeal.

17 Under A.R.S. §41-1092.05, the hearing shall be held within sixty (60) days after the  
18 Notice of Appeal is filed. Although IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ  
19 HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. may  
20 request the Office of Administrative Hearings to delay or advance the hearing date, such  
21 request may be approved or denied in its sole discretion. The Department of Real Estate will  
22 serve a Notice of Hearing at least thirty (30) days before the hearing, which will inform  
23 IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA  
24 VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. of the date, time and location of the  
25 hearing as well as further articulate the allegations being contested.

26 If IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA  
27 VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. file a Notice of Appeal, IGNACIO  
28 CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL DE

1 PUERTO PENASCO, S.A., DE C.V. may also request an Informal Settlement Conference at  
2 the time of filing the Notice of Appeal, or separately by filing a written request no later than  
3 twenty (20) days before the scheduled hearing. This conference shall be held within fifteen  
4 (15) days after receipt of the request. A Department representative with authority to act on  
5 behalf of the Department will be present at the conference. ***The Department is under no***  
6 ***obligation to accept settlement terms IGNACIO CHAVEZ-MORAN, and FIESTA DE***  
7 ***CORTEZ HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V.***  
8 ***file a Notice of Appeal, IGNACIO CHAVEZ-MORAN, and FIESTA DE CORTEZ HOTEL***  
9 ***URBANIZADORA VACACIONAL DE PUERTO PENASCO, S.A., DE C.V. may offer.*** The  
10 Informal Settlement Conference will not delay the scheduled hearing.

11 The Notice of Appeal and request for an Informal Settlement Conference should be  
12 addressed to:

13 Enforcement and Compliance Division  
14 Arizona Department of Real Estate  
15 2910 N. 44<sup>th</sup> Street, Floor 1, Suite 100  
Phoenix, Arizona 85018

16 DATED this 21 day of MAY, 2007.

17  
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19 **SAMUEL P. WERCINSKI, Commissioner**  
20 **Arizona Department of Real Estate**

21 COPY of the foregoing sent by  
22 CERTIFIED MAIL - RETURN RECEIPT REQUESTED  
23 (Receipt No. 7006 0810 0003 4893 3451)  
this 22nd day of May, 2007, to:

24 **IGNACIO CHAVEZ-MORAN**  
25 **FIESTA DE CORTEZ HOTEL URBANIZADORA VACACIONAL DE PUERTO PENASCO,**  
26 **S.A., DE C.V.**  
27 C/o Roberto Salazar, Esq.  
28 3264 N. Little Horse Drive  
Tucson, Arizona 85712-1139  
Respondent



1 COPY of the foregoing delivered this  
2 22nd day of May, 2007 to:

3 Arizona Department of Real Estate  
4 Samuel P. Wercinski, Commissioner  
5 Tom Adams, Assistant Commissioner, Investigations (C06-001457)  
6 Roy Tanney, Assistant Commissioner, Development Services  
7 Mary Utley, Assistant Commissioner, Public Relations  
8 Eleni Katerelos, Compliance Officer  
9 E&C for Real Estate Bulletin

10 *June R. Marshall*  
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